

SUBJECT: STUDENT HEALTH RECORDS

The BOCES shall keep a convenient, accurate, and up-to-date health record of every student. Insofar as the health records include confidential disclosures or findings, they shall be kept confidential.

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of students' "education records." For Pre-K through grade 12 students, health records maintained by the BOCES, including immunization records and school nurse records, generally are considered "education records" subject to FERPA. In addition, records that the BOCES maintains on special education students, including records on services provided to students under the Individuals with Disabilities Education Act (IDEA) are considered "education records" under FERPA because they are:

- a) Directly related to a student;
- b) Maintained by the BOCES or a party acting for the BOCES; and
- c) Not excluded from the definition of "education records."

Since student health and medical information in education records is protected by FERPA, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule excludes such information from its coverage.

Generally, these records may not be shared with third parties without written parental consent unless the disclosure meets one of the exceptions to FERPA's general consent requirement. One exception permits the disclosure of education records, without parental consent, to appropriate parties in connection with an emergency, if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

Parents have a right under FERPA to inspect and review those health and medical records that are considered "education records" under FERPA. Individual records may be interpreted by the school's registered professional nurse to administrators, teachers and other school officials, consistent with law.

Family Educational Rights and Privacy Act of 1974 (FERPA), 20 United States Code (USC) Section 1232g

Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191 34 Code of

Federal Regulations (CFR) Part 99

45 Code of Federal Regulations (CFR) Parts 160, 162 and 164 Education Law Sections 902(b) and 905

8 New York Code of Rules and Regulations (NYCRR) Part 136

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